

AMENDMENTS TO THE DRAWINGS

Figures 18-20 are amended to include legends identifying each of these figures as “Prior Art.” Drawing replacement sheets for Figures 18-20 are provided as attachments to this Amendment.

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action, and for the acknowledgement of Applicants' Claim for Priority and the receipt of the certified copy of the priority document in this National Stage application from the International Bureau. Applicants additionally wish to thank the Examiner for considering the materials cited in the Information Disclosure Statement filed on December 21, 2006, by the return of the signed Form PTO-1449 attached to the above-noted Information Disclosure Statement.

In the Official Action, the drawings were objected to because the Examiner asserted that Figures 8-9 and 18-20 should be designated by a legend such as "Prior Art" because they illustrate that which is old. With regard to Figures 18-20, drawing replacement sheets are attached hereto properly identifying Figures 18-20 as "Prior Art."

With regard to Figures 8-9, however, Applicants respectfully traverse this objection since it is believed that this objection was based on a misinterpretation of Applicants' specification. Applicants' Background Art section of the specification includes a description of prior art Figures 18-20. However, the Background Art section also refers to Figures 8 and 9 "in the patent document 2," which is actually referring to Figures 8 and 9 of a different prior art reference, i.e., WO 03/087856. Thus, a review of the middle paragraph of Applicants' specification page 3 will clearly show that this section is not referring to Applicants' Figures 8 and 9. Accordingly, Applicants request that the objection to Applicants' Figures 8-9 be withdrawn.

As a result of the submission of the drawing replacement sheets for Figures 18-20, and the clarification that Figures 8-9 should not be designated as prior art, Applicants submit that

drawings are now acceptable. Accordingly, Applicants also request that the Examiner indicate that the drawings are acceptable in the next Official communication.

Applicants would like to thank the Examiner for indicating the allowability of Claims 6-7. In response to the Statement of Reasons for Allowance indicated by the Examiner on page 6 of the Official Action, Applicants wish to clarify the record with respect to the basis for the patentability of claims 6-7 in the present application. In this regard, while Applicants do not disagree with the Examiner's indication of allowability, Applicants submit that each of the claims in the present application recite a combination of features, and that the basis for patentability of each of these claims is based on the combination of features recited therein.

Applicants would further like to thank the Examiner for indicating the allowability of claims 2 and 11-13 if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. While Applicants have not done so at the present time, they reserve the right to amend the claims to place them in independent form at a later time.

In the Official Action, claim 9 was rejected under 35 U.S.C. § 101 because the claimed invention was directed to non-statutory subject matter. Claim 9 has been canceled by the amendment.

Claims 1, 3 and 8-10 were rejected under 35 U.S.C. §103(a) over CHODORA (JP-118853) in view of LEE (U.S. Patent Application Publication No. 2003-0101387, mistakenly referenced as U.S. Patent Application Publication No. "2003-30101387") and YANAGAWA et al. (U.S. Patent No. 5,661,404, mistakenly referenced as "KOICHI" in the Office Action). The Examiner's attention is drawn to the administrative errors noted above so that they may be corrected, as necessary.

With regard to independent claims 1, 8, and 10, the Official Action acknowledges that CHODORA fails to disclose the claimed transmission tracking error driver. Additionally, Applicants submit that YANAGAWA also fails to disclose a transmission tracking error driver, but instead illustrates the connection of a network analyzer to a test set. In this regard YANAGAWA reduces testing connections by providing a calibration port with variable standards of “open”, “load” and “short”. However, YANAGAWA does not disclose deriving transmission tracking errors for combinations of ports for which a transmission tracking error determiner has not determined transmission tracking errors. Further, measurements of YANAGAWA are not derived from transmission tracking errors for combinations of ports for which transmission tracking errors have been determined. Accordingly, Applicants submit that modification of CHODORA with the teachings of YANAGAWA would not result in the claimed transmission tracking error driver.

However, the Official Action appears to interpret the channel estimator of LEE, paragraph [0026], as a transmission tracking error driver. Upon a review of the cited portions of LEE, it is noted that LEE’s channel estimator calculates a transmission error estimation (BER/FER). In the subsequent paragraph [0027], LEE defines BER as a bit error rate and FER as a frame error rate. Thus, LEE’s channel estimator calculates the bit error rate and the frame error rate, which are distinctly different from the claimed transmission tracking error. Accordingly, Applicants submit that the combination of CHODORA, YANAGAWA, and LEE fail to disclose or render obvious Applicants’ invention as claimed.

Furthermore, the Examiner’s attention is drawn to page 6, paragraph 9, of the Official Action, in which the Examiner states the reasons for allowance of claims 6-7 as: “None of the references of record alone or in combination disclose or suggest deriving a transmission tracking

error other than the transmission tracking error determined by said transmission tracking error determining based on the transmission tracking error determined by said transmission tracking error determining step.” The reason this statement is important is that a close review of the last three lines of independent claims 1, 8, and 10 reveals almost identical limitations. Accordingly, Applicants submit that independent claims 1, 8, and 10 should be indicated as being allowable for at least reasons similar to that expressed in the Examiner’s statement of reasons for allowance with respect to claims 6-7.

Claims 4-5 were rejected under 35 U.S.C. §103(a) over CHODORA, LEE and YANAGAWA, and further in view of COUASNON et al. (U.S. Patent No. 4,550,407). With regard to claims 4-5, Applicants submit that not only do the cited references fail to disclose the claimed invention for at least the reasons stated above, but that combining the four references in the manner stated in the Official Action would not have been obvious to one of ordinary skill in the art without reverting to impermissible hindsight. Thus, Applicants submit that claims 4-5 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Thus, it is respectfully submitted that all of the pending claims in the present application are clearly patentable over the references cited in the Official Action, either alone or in combination, and an indication of the allowance of all of the pending claims is respectfully requested, in due course.

SUMMARY

Applicants submit that the present application is in condition for allowance, and respectfully request an indication to that effect. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no extoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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Attachments: Replacements Sheets for Figures 18-20

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